

Message Text

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TO AMEMBASSY LIMA IMMEDIATE

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EO11652:NA/DECONTROL SEPT. 26, 1973

TAGS:BDIS,EMIN,EIND,PE

SUBJECT: CERRO CORPORATION PRESS RELEASE OF SEPTEMBER 24,
1973

REF: STATE 189587 (NOTAL)

NAIROBI: FOR PETER FLANIGAN AND JOHN HENNESSY

1. FOLLOWING IS TEXT OF CERRO STATEMENT RELEASED TO PRESS
ON SEPTEMBER 24, 1973:

2. BEGIN TEXT: CERRO CORPORATION ANNOUNCES THAT THE COMPANY
HAS WITHDRAWN ITS OFFER TO SELL TO THE PERUVIAN GOVERNMENT
THE MINING AND SMELTING BUSINESS OF ITS WHOLLY OWNED SUB-
SIDIARY IN PERU, CERRO DE PASCO CORPORATION.

CERRO CHARGED THE PERUVIAN GOVERNMENT WITH BAD FAITH IN NE-
GOTIATION. THE CORPORATION STATED THAT ON ITS OWN INI-
TIATIVE IT HAD TAKEN ALL REASONABLE AND RESPONSIBLE STEPS
TO NEGOTIATE AN ORDERLY TRANSFER OF THE COMPANY TO THE
PERUVIAN GOVERNMENT, IN AN EFFORT TO COMPLY WITH THE
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PUBLICLY STATED POLICIES OF THAT GOVERNMENT.

SINCE THE POLICY WAS FIRST DECLARED IN A SPEECH BY PRESI-
DENT VELASCO ON APRIL 6, 1970, MEMBERS OF THE PERUVIAN

GOVERNMENT HAVE REITERATED THEIR DESIRE TO CONTROL THEIR NATURAL RESOURCES AND TO CAUSE FOREIGN INVESTMENTS EVENTUALLY TO "REVERT TO THE STATE." THE PRINCIPLES OF THE

ANDEAN PACT, TO WHICH PERU IS A LEADING PARTY, INCLUDE A SIMILAR STATEMENT OF POLICY. THIS THEME HAS BEEN INCLUDED IN SUCH DOCUMENTS AS THE GENERAL MINING LAW OF 1971, THE NATIONAL DEVELOPMENT PLAN FOR 1971-75 AND OTHERS.

CERRO CORPORATION WAS SYMPATHETIC TOWARD THIS PHILOSOPHY AND SO INDICATED AS EARLY AS SEPTEMBER, 1970, IN AN INTERVIEW WITH BUSINESS WEEK. IN DECEMBER, 1971, CERRO PROPOSED TO THE PERUVIAN GOVERNMENT A PLAN FOR THE SALE OF CERRO DE PASCO TO THE GOVERNMENT. THE PROPOSAL PROVIDED FOR LONG-TERM PAYMENTS COUPLED WITH A MAJOR EXPANSION PROGRAM FOR WHICH CERRO COULD HAVE ARRANGED THE FINANCING. CERRO OFFERED TO ASSIST IN THE MANAGEMENT AS LONG AS REQUESTED. THIS PLAN WAS LATER MODIFIED TO INCLUDE THE ALTERNATIVE OF GOVERNMENT PARTICIPATION IN PARTNERSHIP WITH CERRO IN WHATEVER RATIO OF OWNERSHIP PERU MIGHT DESIRE. CERRO COOPERATED FULLY WITH A PERUVIAN COMMISSION APPOINTED TO INVESTIGATE IN EXHAUSTIVE DETAIL EVERY ASPECT OF CERRO DE PASCO, INCLUDING ITS NEW YORK BOOKS. THE COMMISSION ADVISED CERRO'S REPRESENTATIVES THAT IT FOUND NOTHING ILLEGAL OR ANYTHING TO CRITICIZE DURING THE TWENTY YEARS STUDIED AND THE COMMISSION COMPILED, IN LATE 1972, A 17-VOLUME REPORT OF ITS INVESTIGATIONS. THE START OF NEGOTIATIONS WAS DELAYED UNTIL SEPTEMBER 13, 1973, AT WHICH TIME CERRO WAS PRESENTED WITH IMPOSSIBLE DEMANDS TANTAMOUNT TO EXPROPRIATION. COMPENSATION, IF ANY, WAS TO BE DETERMINED SOLELY BY PERU AFTER TAKE-OVER OF THE COMPANY.

THROUGHOUT 1973, IN SPITE OF OR PERHAPS BECAUSE OF CERRO'S OFFER TO SELL OR TO FORM A PARTNERSHIP, THE COMPANY HAS BEEN PUBLICLY HARASSED IN PERU BY THE GOVERNMENT. THIS LIMITED OFFICIAL USE LIMITED OFFICIAL USE

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WAS A TRANSPARENT EFFORT TO LOWER THE PRICE WHICH CERRO WOULD BE FORCED TO ACCEPT.

THERE HAD BEEN AN AGREEMENT BETWEEN THE PARTIES, SCRUPULOUSLY FOLLOWED BY CERRO, NOT TO NEGOTIATE IN PUBLIC AND TO CLEAR WITH THE OTHER PARTY ANY PUBLIC DISCLOSURES PRIOR TO THEIR RELEASE. PERU HAS REPEATEDLY VIOLATED THIS AGREEMENT.

ON AUGUST 5, 1973, IN AN INTERVIEW WITH THE FOREIGN MINISTER, MIGUEL DE LA FLOR, PUBLISHED IN THE LOS ANGELES HERALD EXAMINER, IT WAS PUBLICLY DISCLOSED THAT PERU DIDN'T INTEND TO PAY MORE THAN DOLS 12 MILLION FOR THE

ENTIRE INVESTMENT. THIS IS ONLY 7 PERCENT OF THE BOOK VALUE OF DOLS 175 MILLION; HALF OF THE ESTIMATED 1973 NET PROFITS OF DOLS 24 MILLION; ONE-THIRD OF ESTIMATED 73 CASH FLOW

DOLS 35 MILLION; AND LESS THAN HALF THE DOLS 27 MILLION CASH-ON-HAND IN PERU. THE DOLS 12 MILLION FIGURE SHOULD BE COMPARED AS WELL TO THE DOLS 250 MILLION AT WHICH THE BUSINESS WAS RECENTLY EVALUATED BY THE HIGHLY REPUTABLE AMERICAN APPRAISAL COMPANY. THE ARTICLE ALSO STATED THAT CERRO WAS WILLING TO DEDUCT DOLS 130 MILLION FROM ITS PRICE OF DOLS 175 MILLION FOR VARIOUS FACTORS. THAT IS A FALSE STATEMENT.

ON AUGUST 29, 1973, PRESIDENT VELASCO WAS QUOTED IN THE NEW YORK TIMES AS HAVING STATED THAT FORCE WOULD BE USED TO TAKE OVER CERRO DE PASCO IF NEGOTIATIONS FAILED, AND THAT ANY COMPENSATION IN A SALE WOULD BE DETERMINED BY THE GOVERNMENT RATHER THAN BY MUTUAL AGREEMENT. SEPTEMBER 15 MINISTER OF MINES JORGE FERNANDEZ-MALDONADO, STATED TO THE PRESS THAT BY YEAR-END CERRO DE PASCO WOULD BELONG TO THE GOVERNMENT. THESE STATEMENTS ARE OBVIOUS ATTEMPTS TO INTIMIDATE THE NEGOTIATORS. SUCH IS THE TREATMENT FOREIGN CAPITAL RECEIVES IN PERU IN RETURN FOR A VOLUNTARY OFFER TO COMPLY WITH THE STATED PHILOSOPHY OF THE GOVERNMENT.

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CERRO HAS OPERATED IN PERU FOR 71 YEARS WITH STEADILY EXPANDING PRODUCTION, WHILE CONTRIBUTING TO THE ECONOMY AND TO THE PEOPLE IN MANY WAYS AND PERFORMING AS A GOOD CORPORATE CITIZEN. IT HAS DEVELOPED TECHNOLOGY WHICH IS WORLD FAMOUS, INCLUDING THE EXTRACTION OF SIXTEEN DIFFERENT REFINED METALS, MINERALS AND CHEMICALS FROM COMPLEX ORES, AND INCLUDING EFFICIENT SMELTING AND REFINING UNDER CONDITIONS OF LOW ATMOSPHERIC PRESSURE AND LOW OXYGEN AVAILABILITY. IT OPENED UP MINES KNOWN FOR CENTURIES, BUT UNDEVELOPED BY OTHERS. IT CONSTRUCTED HIGH-ALTITUDE MEDICAL FACILITIES UNSURPASSED IN THE WORLD, TRAINED THOUSANDS OF PERUVIAN TECHNICIANS AND EXECUTIVES AND COMPILED A SAFETY RECORD BETTER THAN THAT OF THE UNITED STATES MINING INDUSTRY. THE COMPANY EXPANDED CAPACITY BY A MULTIPLE OF FOUR OVER THE PAST TWENTY YEARS ALONE, AND OPENED UP ONE OF PERU'S MAJOR MINES, COBRIZA, AS RECENTLY AS FIVE YEARS AGO. UNTIL ITS OFFER TO SELL TO THE GOVERNMENT, ITS RELATIONS WITH PERU HAD BEEN RELATIVELY HARMONIOUS.

THE GOVERNMENT HAS CLAIMED THAT CERRO PROVIDES INADEQUATE HOUSING FOR ITS EMPLOYEES. THE COMPANY'S HOUSING WAS NOT ONLY IN ACCORDANCE WITH THE REQUIREMENTS OF THE LAW UNTIL NEW STANDARDS WERE ARBITRARILY ESTABLISHED IN MAY,

1973, BUT IT ALSO IS SUBSTANTIALLY SUPERIOR TO THE GENERAL LEVEL OF HOUSING IN PERU. THE COMPANY HAS SPENT DOLS 66 MILLION ON HOUSING AND RELATED EXPENDITURES IN THE PAST TWENTY YEARS, AND IT HAS FAITHFULLY SUBMITTED A PROGRAM TO MEET THE REQUIREMENTS OF THE NEW LAW BY OFFERING TO INVEST AN ADDITIONAL DOLS 65 MILLION DURING THE NEXT FIVE-YEAR PERIOD. IN THE OPINION OF CERRO'S REPRESENTATIVES THE ATTACK ON ITS HOUSING IS NOT ONLY AN EFFORT TO BRING DOWN THE SELLING PRICE, BUT ALSO AN ATTEMPT TO DIVERT PUBLIC ATTENTION FROM THE GOVERNMENT'S FAILURE TO IMPROVE THE SLUMS AROUND LIMA, AMONG THE WORLD'S WORST.

THE GOVERNMENT DURING THIS PERIOD DECREED MANY MEASURES INTENDED TO HARASS THE COMPANY, IN AN ATTEMPT TO LOWER THE SALE PRICE. IN ADDITION TO THE DISCRIMINATORY INCREASE
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IN HOUSING REQUIREMENTS, THE MEASURES INCLUDE THE TAKE-OVER OF CERRO'S UNDEVELOPED MINING CONCESSIONS, EVEN IN CONTRADICTION OF PERU'S OWN REGULATIONS. IN THIS CASE THE MINISTER WAS PROSECUTOR, JUDGE AND JURY. NO APPEAL TO THE COURTS OF PERU WAS PERMITTED AND NO COMPENSATION PAID. A SUDDEN CHANGE WAS DICTATED IN CERRO DE PASCO'S TAX BASE AFTER TWENTY YEARS OF OFFICIAL APPROVAL OF THE METHOD USED. THE LAST WAS DONE CAPRICIOUSLY TO INCREASE OUR TAXES AND WITH THE OBVIOUS INTENT OF FRUSTRATING THE REPATRIATION OF DOLLARS TO THE UNITED STATES BY CONVERSION OF PERUVIAN SOLES. CERRO DE PASCO HAS AT THIS POINT VALID REQUESTS FOR DOLS 50 MILLION OF CONVERTIBILITY. AS NOTED ABOVE, IT HAS ON HAND IN PERU'S LOCAL CURRENCY THE EQUIVALENT VALUE OF DOLS 27 MILLION. THE PERUVIAN GOVERNMENT HAS WITHHELD APPROVAL OF ANY PROFIT REMITTANCES SINCE APRIL, 1972, AGAIN IN AN ATTEMPT TO INTIMIDATE CERRO'S NEGOTIATORS, AND IN THIS CAMPAIGN HAS USED SUCH DEVICES AS AN INTENTIONAL MATHEMATICAL ERROR AND THE "LOSING" OF FILES IN THE MINING MINISTRY.

AGENCIES OF THE PERUVIAN GOVERNMENT HAVE SYSTEMATICALLY TAKEN AWAY ESSENTIAL RIGHTS NEEDED TO MANAGE THE COMPANY. THE GOVERNMENT HAS DECREED THAT IT WILL ASSUME THE SELLING OF ALL CERRO DE PASCO'S PRODUCTS ON JANUARY 1, 1974. IT HAS SUBVERTED THE FREE COLLECTIVE BARGAINING PROCESS BETWEEN CERRO DE PASCO AND THE UNIONS SELECTED BY ITS EMPLOYEES. IT HAS DIVERTED SUPPLIES OF CUSTOM ORES NEEDED TO KEEP THE CERRO DE PASCO SMELTERS FUNCTIONING AT CAPACITY. WITHIN THE PAST WEEK IT HAS REFUSED TO GRANT EXPORT LICENSES FOR CERRO DE PASCO PRODUCTS ALREADY SOLD. SHIPS ARE WAITING NOW IN THE PORT OF CALLAO READY TO LOAD THOSE PRODUCTS. THE GOVERNMENT HAS ATTEMPTED TO INSERT NEW

COMMERCIAL REQUIREMENTS IN APPROVED EXPORT CONTRACTS
AND IT HAS ARBITRARILY WITHELD DOCUMENTS ON OTHER SHIP-
MENTS NOW AT SEA.

IN SUMMARY, CERRO CORPORATION'S GOOD-FAITH OFFER TO COM-
PLY WITH THE PERUVIAN GOVERNMENT'S STATED POLICY OF OWNER-
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SHIP OF NATURAL RESOURCES AND OUR EFFORTS TO TRANSFER
OWNERSHIP OF CERRO DE PASCO CORPORATION IN AN ORDERLY
MANNER HAVE BEEN MET WITH UNREASONABLE CONDITIONS, WITH
PUBLIC VILIFICATION AND WITH LEGALISTIC HARASSMENT WHICH
HAVE MADE IT IMPOSSIBLE FOR THE CORPORATION TO CONTINUE
THE NEGOTIATIONS.

C. GORDON MURPHY
PRESIDENT
CERRO CORPORATION
SEPTEMBER 24, 1973 RUSH

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